



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Payco-General American Credits, Inc.
File: B-223991
Date: October 20, 1986

DIGEST

1. Under request for proposals (RFP) for business office services at hospital principally serving indigent, mentally ill patients, technical review panel properly found protester's proposal unacceptable since proposal failed to demonstrate protester's experience and expertise in dealing with type of patient population found at the hospital, an area having significant weight under RFP's evaluation scheme.
2. When determining which proposals will be considered for award, contracting officer may consult with the contracting agency's project manager, provided that the contracting officer's ultimate determination regarding the technical merits of a proposal is consistent with the evaluation criteria in the solicitation.
3. Proposal preparation costs may not be recovered where protest is denied since recovery of such costs is allowed only where protest is found to have merit.

DECISION

Payco-General American Credits, Inc. protests the rejection of its proposal as technically unacceptable under request for proposals (RFP) No. 279-86-0023P, issued by the Department of Health and Human Services (HHS) for business office services at Saint Elizabeths Hospital (SEH), Washington, D.C. We deny the protest.

The RFP, issued on April 7, 1986, called for proposals to provide on a cost-plus-fixed-fee basis staff services relating to management of patient accounts at SEH. The general functions required were financial investigation and counseling of patients; determining eligibility for and processing public assistance benefits; accounts receivable management; and collections. The RFP specified four

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evaluation criteria worth a total of 100 points: (1) understanding the problem (20 points); (2) technical approach (15 points); (3) personnel (55 points); and (4) program management (10 points). The third criterion, personnel, was divided into two subcriteria, proposed staffing (20 points) and key personnel (35 points).

Two offerors responded by the May 6 due date for proposals, HBO and Company, the incumbent contractor, and Payco. A technical panel initially reviewed the proposals on May 21 and found both technically acceptable. Of the 100 points available under the four evaluation criteria, the panel gave Payco 87.4 points and HBO 98 points. After consulting with the project manager, however, the contracting officer determined that Payco's proposal did not adequately discuss an important requirement under the RFP, the offeror's experience in financial investigations and counseling of mentally ill, indigent patients. By letter dated July 10, the contracting officer asked Payco to provide further information in that area and to elaborate on other parts of its proposal found weak or unclear, for example, the omission of direct nonlabor costs such as supplies and equipment from Payco's cost proposal.

Payco responded to HHS by letter dated July 21. Based on Payco's responses, the technical panel reviewed Payco's proposal and found it technically unacceptable, decreasing Payco's original score by 36 points from 87.4 to 51.4 points. Most of the points subtracted (23 points) were under the evaluation criterion for personnel, reflecting the panel's conclusion that Payco's proposal was weak in the area of financial investigation and counseling of mentally ill, indigent patients. On August 6, the contracting officer notified Payco that its proposal had been found technically unacceptable and would no longer be considered for award.

Payco first argues that the agency's evaluation of its proposal improperly emphasized prebilling services relating to financial investigation and benefits eligibility instead of accounts management and collections. We disagree. As discussed above, the RFP assigned the greatest weight in the technical evaluation (55 of 100 points) to the offeror's proposed personnel. Under that evaluation criterion, the RFP specifically called for offerors to demonstrate their experience in accounts management for mentally ill, indigent patients. Specifically, the RFP in part required:

"Demonstrated competence in the areas of
financial investigation, accounts
receivable management, collections

(Federal and Commercial practice) and GAAP accounting with appropriate recognition of the special requirement for dealing with a mentally disabled patient population.

"Key Personnel

"Special expertise in management of indigent patient populations, with emphasis on knowledge of Medicare, Medicaid, SSI, and SSA eligibility criteria and coverage parameters.

"Demonstrated availability of experienced professional and technical personnel with demonstrated experience in dealing with a severely mentally disabled population."

In our view, the significance attached by the technical panel and the contracting officer to Payco's experience and expertise in dealing with the type of patient population found at SEH was consistent with the emphasis the RFP placed on that factor.

Payco also challenges the contracting officer's finding that Payco lacked adequate experience in dealing with mentally ill, indigent patients. In reviewing protests concerning a contracting agency's evaluation of a proposal, we examine whether the evaluation is reasonable and consistent with the evaluation criteria. Consolidated Group, B-220050, Jan. 9, 1986, 86-1 CPD ¶ 21. When an agency's determination regarding the technical merits of a proposal is challenged, we will question the determination only upon a clear showing of unreasonableness, abuse of discretion, or violation of procurement statutes or regulations. Bank Street College of Education, 63 Comp. Gen. 393 (1984), 84-1 CPD ¶ 607. Here, we see no basis on which to question the contracting officer's evaluation of the technical merits of Payco's proposal.

In evaluating Payco's proposal, HHS recognized that Payco has extensive experience in general management of accounts receivable and collections. According to HHS, however, this type of experience does not meet SEH's needs as set out in the RFP because of the specialized nature of SEH's operations. Specifically, HHS states that since more than 80 percent of collections at SEH come from public assistance programs, experience like Payco's with collections from commercial insurers or patients themselves is not as important as for other types of hospitals; rather, SEH's needs principally involve determining patients' eligibility for public assistance benefits. In addition, since SEH's

patients are mentally ill and often indigent, determining their eligibility for benefits is more difficult and requires different investigation techniques than in other hospital settings. Accordingly, to meet its needs SEH requires an offeror with experience in dealing with similar patient populations.

Payco's proposal has only a general discussion of procedures for determining the eligibility for benefits of poor and uninsured patients, and does not discuss any specialized procedures for dealing with mentally ill patients. In its response to the contracting officer's July 21 letter asking for details on Payco's experience and expertise specifically in dealing with indigent patients, Payco emphasized its plan for on-the-job training of its staff in SEH's special needs. Payco argues that its proposal discussed prior contracts Payco performed at other hospitals, but that CHS failed to contact these prior clients regarding Payco's experience. The contracting officer states that the clients listed in Payco's proposal were contacted. In any event, Payco's performance under those contracts does not demonstrate the experience required by the RFP since, according to Payco's own description, those contracts primarily involved commercial accounts management and collection activities rather than financial investigation and counseling of the type called for by the RFP.

Payco also argues that the second evaluation of its proposal and the reduction in its technical score by the technical review panel resulted from improper participation in the evaluation process by the project manager. We disagree. The record shows that the contracting officer decided to reconvene the technical review panel based on advice from the project manager regarding weaknesses in Payco's proposal in the area of experience with mentally ill, indigent patients. In our view, when determining which proposals will be considered for award, the contracting officer may consult with the project manager and rely on his advice, provided that, as we have found here, the contracting officer's ultimate decision regarding the technical merits of a proposal is consistent with the evaluation criteria in the RFP. Further, the fact that the project manager emphasized the importance of the experience requirement did not constitute "intimidation" or other improper influence of the review panel, as Payco contends, since, as discussed above, the RFP itself emphasized that requirement.

Finally, Payco states that although its proposed costs were approximately \$300,000 lower than HBO's costs, the contracting officer failed to take into account Payco's lower costs

in evaluating Payco's proposal. We find this argument to be without merit. Since HHS properly found Payco's proposal technically unacceptable, it is irrelevant whether Payco's proposed costs were lower than HBO's. Thomas Engineering Co., B-220393, Jan. 14, 1986, 86-1 CPD ¶ 36. In any event, since a cost-plus-fixed-fee contract was to be awarded, the comparison Payco makes based on the offerors' proposed costs is not necessarily accurate; the difference in the two offerors' costs may have been different once Payco's costs were examined and adjusted for cost realism.

Payco requests that it be awarded its proposal preparation costs. Recovery of costs is allowed only where a protest is found to have merit. Competition in Contracting Act of 1984, 31 U.S.C. § 3554(c)(1) (Supp. III 1985); Bid Protest Regulations, 4 C.F.R. § 21.6(d) (1986). Since we have denied the protest, we also deny Payco's claim for recovery of costs.

The protest is denied.

for *Raymond E. Groves*
Harry R. Van Cleave
General Counsel